

REMARKS

Claims 1, 2, 4, 9, 11, 15, 19, 20, 21, and 23 are pending with claims 1, 9, 15, and 20 being independent. Claims 1, 9, 15, and 20 have been amended.

Applicants object to the finality of the action. According to MPEP §706.07(a), "Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." The examiner has rejected the pending claims based on new art discovered by the Examiner (i.e., based on Engeler (U.S. Patent No. 3,601,888) and Takafuji (U.S. Patent No. 4,746,628)). However, applicants did not amend the claims in the Office Action response mailed on January 23, 2004, and did not submit the Engeler and Takafuji references in an information disclosure statement. Accordingly, the new ground of rejection is not necessitated by applicant's actions, and, in accordance with MPEP §706.07(a), applicants request that the finality of the action be withdrawn.

Independent claims 1, 9, 15, and 20 and dependent claims 2, 4, 11, 19, 21, and 23 have been rejected as being unpatentable over Engeler (U.S. Patent No. 3,601,888) in view of Takafuji (U.S. Patent No. 4,746,628).

Claims 1, 9, 15, and 20 have been amended to eliminate the recitation of antimony ("Sb") as an alternative to gallium ("Ga"). As such, claims 1, 9, 15, and 20, as amended, recite a semiconductor device including "an alloy comprising *Ga*" (emphasis added), where Ga is gallium. Applicants request reconsideration and withdrawal of the rejection of claims 1, 9, 15, and 20 and their dependent claims because neither Engeler, Takafuji, nor any combination of the two describes or suggests the recited alloy.

Engeler describes fabrication techniques to produce semiconductor devices that use doped metallic conductors. Contrary to the Examiner's contention, however, the metallic conductor layer 44 does not contain Gallium. Rather, the metallic conductor layer 44 contains

"both boron and antimony." See col. 11, lines 43-46. Gallium is mentioned in Engeler as a semiconductor alternative to silicon and not as component of the recited alloy. See col. 3, lines 36-39. Accordingly, Engeler does not describe or suggest the recited alloy.

Takafuji does not remedy the deficiency of Engler. Like Engeler, Takafuji does not disclose the recited alloy that includes Gallium. Takafuji describes Gallium as a component of a semiconductor rather than as a component of the recited alloy. See col. 4, lines 30-34.

For at least these reasons, neither Engeler, Takafuji, nor any combination of the two describes or suggests the recited alloy, and the rejection should be withdrawn.

Applicants submit that all claims are in condition for allowance.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,



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